

REMARKS

At the time of the Office Action, dated October 5, 2005, claims 1-20 are pending in this application. In this Amendment, claims 1-20 have been canceled, and new claims 21-38 have been added. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments and related discussion thereof in the written description of the specification.

Applicants submit the rejection of claims 1-20 in this Office Action has been rendered moot by cancellation of those claims, and that Serret-Avila, Nash and Hirai, either individually or in combination, do not disclose or suggest the claimed invention in new claims 21-38.

Claims 21, 32-34 and 36-38

Applicants submit that Serret-Avila, Nash and Hirai do not disclose or teach, among other things, detecting an abuse of a control program controlling the recording and reproducing device, recited in independent claims 21, 32-34 and 36-38.

In the statement of the rejection, the Examiner asserted that decoding device 104 of Serret-Avila is operable to detect the abuse of the digital content data or the control program (see, e.g., paragraphs 4 and 13 of the Office Action). However, Serret-Avilla does not disclose detecting abuse of the control program. For example, Serret-Avilla mentions, "When decoding system 104 receives the encoded data signal 302, system 104 verifies the authenticity of [data] blocks 304..." (column 11, lines 32-36). In Serret-Avilla, only authenticity of data can be detected. Serret-Avilla is silent on detecting abuse of a control program controlling the recording and reproducing device. Accordingly, when the control program is tampered with,

such tampering cannot be detected in Serret-Avilla. As a result, Serret-Avilla does not protect unauthorized copies of copyrighted contents because it cannot detect tampering with the control program, i.e., the tampered control program can reproduce unauthorized copies of copyrighted contents.

In contrast, it is possible for the claimed invention to monitor the tampering with the control program itself, and to prevent malicious activities (such as tampering with the copyright protection function) and the unauthorized copying or the unauthorized mass-replicate of the copyrighted digital contents data.

Nash and Hirai do not disclose detecting an abuse of a control program controlling the recording and reproducing device.

In addition, claims 37 and 38 recite “a sending unit operable to send in specific time intervals to a specific abuse detecting server a notice of no abuse detected by the detecting unit,” and “a revoking unit operable to enable to operate the recoding and reproducing device for a specific period on the basis of a control instruction to permit the use of the recording....” These limitations of claims 37 and 38 are not disclosed by Serret-Avila, Nash and Hirai.

Accordingly, Serret-Avila, Nash and Hirai do not disclose or teach the claimed invention recited in independent claims 21, 32-34 and 36-38. Applicants, therefore, respectfully solicit favorable consideration of claims 21, 32-34 and 36-38.

Claims 22 and 35

It is submitted that Serret-Avila, Nash and Hirai, either individually or in combination, do not disclose or teach, among other things, “a comparing unit operable to compare, if necessary, the first abuse prevention information... and a second abuse prevention information recalculated

Application No.: 10/092,472

by the abuse prevention information calculating unit by means of the control program and the specific function, and then judging the abuse based on the comparing result,” as recited in claims 22 and 35.

The Examiner asserted that signal verification engine 512 of Serret-Avila corresponds to the claimed comparing unit (see, e.g., paragraph 5 of the Office Action). Signal verification engine 512 is configured to evaluate authenticity of data block 510, and how to evaluate is illustrated in Fig. 5B of Serret-Avila. However, it is apparent that Serret-Avila does not disclose calculating the abuse prevention information by means of the control program and the specific function and then compare the first and second abuse prevention information, as claimed.

In addition, Nash and Hirai are silent on the claimed comparing unit using the control program and the specific function.

Accordingly, Applicants submit that Serret-Avila, Nash, and Hirai do not disclose or suggest the claimed invention recited in claims 22 and 35, and therefore, respectfully solicit favorable consideration of claims 22 and 35.

Claims 23-31

It is submitted that dependent claims 23-31 are patentably distinguishable over Serret-Avila, Nash, and Hirai at least because the claims respectively recite all the limitations recited in independent claim 1.

Specifically, claim 23 recites that the comparing unit compares the first abuse prevention information stored at power-off of the recording and reproducing device and the second abuse prevention information recalculated by the abuse prevention information calculating unit.”

Claim 24 recites that “the abuse prevention information storage unit is different from a storage

unit storing the control program.” Claim 25 recites that “the abuse prevention information calculating unit calculates and stores the first abuse prevention information...” and “the comparing unit compares the first abuse prevention information... and the second abuse prevention information recalculated by the abuse prevention information calculating unit.” The above limitations recited in claims 23-24 are not disclosed or taught by Serret-Avila, Nash, and Hirai.


Conclusion

It should, therefore, be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILCOX & EMERY LLP


Tomoki Tanida
Limited Recognition No. L0098

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 SAB:TT
Facsimile: 202.756.8087
Date: January 5, 2006

**Please recognize our Customer No. 20277
as our correspondence address.**